

PLEASE DATE STAMP
AND RETURN

IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

JOSE CORREA VILLACIS
13716 Marianna Drive
Rockville, Maryland 20853

Plaintiff

v.

PERFORMANCE TRANSPORTATION, LLC
12500 West Creek Parkway
Richmond, Virginia 23238
Serve: R/A National Registered Agents, Inc. of Md.
2405 York Road, Suite 201
Lutherville, Maryland 21093-2264

Case No. _____ -V

and

THOMAS LEON LOVE
300 Blue Moon Xing, Apartment 7304
Pooler, Georgia 31322-9756

Defendants

COMPLAINT

COMES NOW Plaintiff Jose Correa Vilacis, by and through his attorneys, Peter L. Scherr and Futrovsky, Forster & Scherr, Chartered, and sues Defendants Performance Transportation, LLC and Thomas Leon Love and, as the basis therefore, alleges that:

PARTIES

1. Plaintiff Jose Correa Villacis ("Plaintiff") is a resident and domiciliary of Montgomery County, Maryland.
2. Defendant Thomas Leon Love ("Defendant Davis") is a resident and domiciliary of Chatham County, Georgia.
3. Defendant Performance Transportation, LLC ("Defendant Performance") is a Delaware corporation which is licensed and qualified to do business in the State of Maryland. At all times relevant hereto, Defendant Performance was a licensed motor carrier engaged in the business of, *inter alia*, transporting and arranging for the transport of food products and other items within and without the State of Maryland.

RECEIVED

JUL 07 2021

Clerk of the Circuit Court
Montgomery County, Md.

JURISDICTION AND VENUE

4. All acts and/or omissions complained of herein occurred in Montgomery County, Maryland.

5. Pursuant to MD. CODE ANN., CTS. & JUD. PRO. §6-202(8) (Lexis 2021), a proper venue for this proceeding is Montgomery County, Maryland.

6. Pursuant to MD. CODE ANN., CTS. & JUD. PRO. §6-103(b)(1), (2) and (3)(Lexis 2021), this Honorable Court has jurisdiction over Defendants.

7. Pursuant to MD. CODE ANN., CTS. & JUD. PRO. § 1-501 (Lexis 2021), this Honorable Court has jurisdiction over the subject matter of this Complaint.

FACTS COMMON TO ALL COUNTS

8. On or about September 5, 2018, at approximately 12:00 p.m., Plaintiff was standing in the cargo area of a box truck which was legally parked at the loading dock for the Montgomery County Department of Liquor Control Store located at 3733 University Boulevard West in Kensington, Montgomery County, Maryland ("the Store").

9. At that time, Defendant Love was the operator of a Freightliner truck proceeding in an eastbound direction through the parking lot to the rear of the Store toward a CVS store located at 3715 University Boulevard in Kensington, Montgomery County, Maryland, immediately east of the Store.

10. At that time and place, as Defendant Love turned his Freightliner truck to the right, Defendant Love's Freightliner truck collided with the legally parked box truck in which Plaintiff was standing.

COUNT I
(NEGLIGENCE - DEFENDANT THOMAS LEON LOVE)

11. Plaintiff hereby incorporates herein by referenced Paragraphs 1 through 10, *supra*.

12. At that time and place, Defendant Love was unreasonable as Defendant Love:

A. failed to maintain a proper distance between Defendant Love's Freightliner truck

and Plaintiff's legally parked box truck;

- B. failed to keep a proper lookout in the direction in which Defendant Love was traveling;
- C. failed to pay full time and attention to the roadway and the vehicles located thereon, including Plaintiff's legally parked box truck;
- D. failed to control Defendant Love's Freightliner truck to avoid colliding with Plaintiff's legally parked box truck; and
- E. otherwise failed to act with due care and caution to avoid colliding with Plaintiff's legally parked box truck.

13. As a direct and proximate result of the aforementioned unreasonable acts and omissions on the part of Defendant Love, Defendant Love's Freightliner truck collided with Plaintiff's legally parked box truck.

14. The collision between the vehicles was solely due to the aforementioned unreasonable acts and omissions of Defendant Love.

15. The collision occurred without any negligence or want of due care on the part of Plaintiff, directly or indirectly contributing thereto.

16. As a direct and proximate result of Defendant Love's negligence, Plaintiff lost his balance and sustained serious and debilitating injuries to his back, neck and other body parts.

17. As a result of these injuries, Plaintiff underwent and continues to undergo extensive medical treatment including, *inter alia*, orthopaedic evaluations and treatment, physical therapy, radiology, imaging and electrodiagnostic studies, and multiple spinal injections, incurred and will continue to incur the expenses associated with that treatment, suffered and continues to suffer from pain, limitation of function, the inability to enjoy life, and emotional distress, and suffers from significant permanent impairment.

18. As a result of these injuries, Plaintiff lost time and wages from his employment.

WHEREFORE, Plaintiff Jose Correa Villacis brings suit against Defendant Thomas

Leon Love and claims compensatory damages in an amount exceeding Seventy-Five Thousand Dollars (\$75,000.), plus costs and such and further damages as this Honorable Court seeks just and mete.

COUNT II

**(RESPONDEAT SUPERIOR -
DEFENDANT PERFORMANCE TRANSPORTATION, LLC)**

19. Plaintiff hereby incorporates herein by reference Paragraphs 1 through 18, *supra*.

20. At all times relevant hereto Defendant Love was acting within the scope of his employment with and/or authority to act for Defendant Performance, furthering the interests of Defendant Performance.

WHEREFORE, Plaintiff Jose Correa Villacis brings suit against Defendant Performance Transportation, LLC and claims compensatory damages in an amount exceeding Seventy-Five Thousand Dollars (\$75,000.), plus costs and such and further damages as this Honorable Court seeks just and mete.

COUNT III

**(NEGLIGENT ENTRUSTMENT -
DEFENDANT PERFORMANCE TRANSPORTATION, LLC)**

21. Plaintiff hereby incorporates herein and incorporates by reference Paragraphs 1 through 20, *supra*.

22. At all times relevant hereto, Defendant Love was operating a truck controlled by Defendant Performance.

23. Defendant Performance permitted Defendant Love to operate said truck prior to and at the time of the aforementioned collision.

24. Defendant Performance knew or should have known through proper investigation of Defendant Love that Defendant Love had a propensity to become involved in motor vehicle collisions.

25. Plaintiff, as a member of the driving public, was a member of a foreseeable class

of people who were at risk of physical harm while Defendant Love operated the truck controlled by Defendant Performance.

26. Defendant Performance knew or should have known that Defendant Love was likely and had a propensity to operate said truck in a negligent and unsafe manner that would cause harm to others.

27. The negligence of Defendant Performance in entrusting the vehicle to Defendant Love and Defendant Love's negligence in driving said vehicle directly, proximately and concurrently caused all injuries and other damages sustained by Plaintiff.

WHEREFORE, Plaintiff Jose Correa Villacis brings suit against Defendant Performance Transportation, LLC and claims compensatory damages in an amount exceeding Seventy-Five Thousand Dollars (\$75,000.), plus costs and such and further damages as this Honorable Court seeks just and mete.

JURY DEMAND

Plaintiff hereby prays a trial by jury as to all issues so triable.

Respectfully submitted,

FUTROVSKY, FORSTER & SCHERR, CHTD.



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